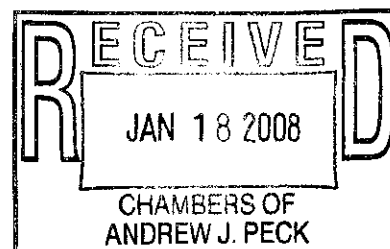
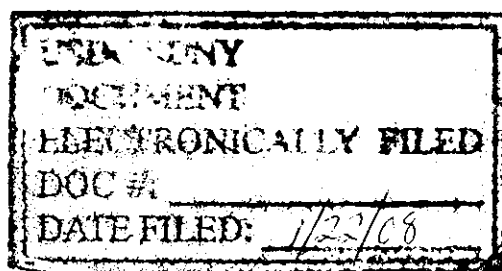


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January 16, 2008

BY FAX

Magistrate Judge Peck
Southern District of New York
United States Courthouse
500 Pearl Street
New York, NY 10007-1312

MEMO ENDORSED *pr*

Re: National Union Fire Insurance v. Anthony McEwan,
et. al,
07 Civ. 7515 (BSJ) (AJP)

Dear Judge Peck:

I represent Paul Shusterman in the referenced matter. I apologize for writing on Friday afternoon. However, this afternoon, when trying to finalize a settlement with plaintiff's lawyer I became aware of a settlement conference scheduled for this Tuesday, January 22. I did not have the date on my calendar and did not inform my client of the date. In fact I did not have the scheduling order calendared at all. My client is out of the Country and I will be away next week as well, although I can arrange for another lawyer to attend the conference (I am a solo practitioner but will arrange for coverage by someone familiar with the matter).

Plaintiff's lawyer has consented to proceeding without my client's attendance as we are quite close to a settlement. I believe it will require only another round of phone calls with the insurance company plaintiff. The settlement is for a *de minimus* amount. Furthermore, plaintiff agrees that my client's presence is unnecessary for him to proceed with settling with the other defendants, so there should be no negative effect on the productivity of the conference caused by my client's absence.

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Judge Peck
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January 18, 2008

I apologize again for not having the date and hope the Court can excuse my carelessness -- it is not my usual practice and it should not affect wither the other parties ability to settle nor my client's settlement. I am confident that we will be able to report that my client and the plaintiff have settled shortly after the Holiday weekend.

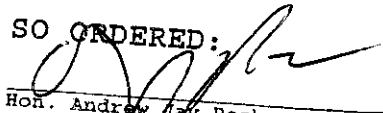
Respectfully submitted,


Marc A. Lebowitz

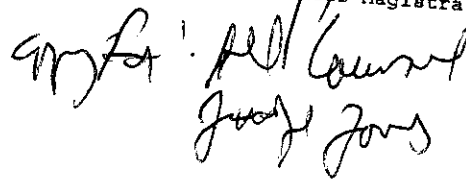
cc: Brian Keats, Esq.

MEMO ENDORSED 1/18/08
REQUEST DENIED. THE ORDER
FOR THE CONF WAS FAXED TO
YOU ON 11/30/07. SETTLE WITH
PLAINTIFF'S COUNSEL OVER THE
WEEKEND OR APPEAR AT THE
CONF AND/OR PREPARE TO BE
MONETARILY SANCTIONED.

SO ORDERED:


Hon. Andrew Jay Peck
United States Magistrate Judge

BY FAX


Judge Jones